



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

June 18, 2004

Mr. Greg Moore
Becker Morgan Group, Inc.
739 S. Governors Avenue
Dover, DE 19904

RE: PLUS review – PLUS #2004-05-08 – Maidstone Development

Dear Mr. Moore:

Thank you for meeting with State agency planners on June 2, 2004 to discuss the proposed plans for the Maidstone project to be located on the southeast corner of the intersection with West Denneys and Kenton Roads.

According to the information received, you are seeking site plan review through the City of Dover to develop a subdivision consisting of 194 residential units on 62.00 acres.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as because the City of Dover is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the City.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

This project is located in Investment Level 2 according to the June 3 version of the 2004 State Strategies for Policies and Spending, which has been approved by the Cabinet Committee for State Planning Issues. Investment Level 2 reflects areas where growth is anticipated by local, county, and state plans in the near term future. State investments will support growth in these areas. Our office has no objections to the development of this project in accordance with the relevant city codes and ordinances.

In addition, we would like to commend the property owner for his environmental stewardship, demonstrated through the preservation of a large portion of this parcel through sale to the State of Delaware. The portions of the property that were preserved contain a particularly significant stand of mature woodlands which has numerous ecological benefits. It is noted that previously approved development plans would have involved the removal of a significant portion of the forested area on the site.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

The State Historic Preservation Office has stated that they are happy to know that the majority of the property has been preserved as the Anne McClements Woodland Preservation Area. There is a high probability that the woodland area has archaeological sites and by preserving the woodlands, the archaeological sites will be preserved too. As for the development portion of the land and the subject of this application, SHPO would like to make the developers aware that if there is any federal involvement with this project, in the form of permits, licenses, or funds, that the federal agency must comply with Section 106 of the National Historic Preservation Act, which requires that the agency consider the effects of the project on historic resources.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

To determine whether the proposed entrance locations are adequate, DelDOT will require a site plan showing all existing entrances adjacent to and opposite the subject lands in a stick figure format.

Because the plan does not show what the existing right-of-way widths are for West Denneys Road and Kenton Road, it cannot be determine whether additional right-of-way will be required along the entire frontage of either or both roads. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 40 feet from the centerline on collector roads, which both of these roads are.

While DelDOT has not yet determined what they would be, they anticipate requiring improvements to West Denney Road, Kenton Road and their intersection. Because those improvements could involve the modification of the signal there, it is also anticipated that they will require a signal agreement pertaining to the existing signal there.

The developer's engineer should coordinate with the DelDOT Subdivision Manager, Mr. George Shaw, regarding comments 1 through 3 and more generally to determine what DelDOT will require regarding the proposed site entrance. Mr. Shaw may be reached at (302) 760-2261.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

According to the Kent County soil survey, the following soils were mapped in the immediate vicinity of the proposed construction:

Well drained – Sassafras

Moderately well drained – Woodstown

Poorly drained (**hydric**) – Fallsington & Othello

Sassafras is well-drained upland soils that have few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that have moderate limitations for development. Fallsington and Othello are poorly-drained wetland associated (hydric) soils that have severe limitations for development.

Wetlands

According to Statewide Wetland Mapping Project (SWMP) maps, palustrine forested and palustrine farmed wetlands were mapped on subject parcel.

The applicant should be reminded that they must avoid construction/filling activities in those areas containing wetlands or wetland associated hydric soils as they are subject to regulatory provisions under the Federal 404 Clean Water Act governing jurisdictional wetlands. A wetlands delineation is highly recommended. **Further, the applicant is strongly encouraged to maintain a 100-foot minimum buffer width from the landward edge of all delineated wetlands and watercourses (including ditches).**

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

TMDLs

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or sub watersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the St. Jones River sub watershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

Stormwater Management

The applicant is encouraged to contact Jared Adkins, Kent Conservation District stormwater program, at (302) 697-2600 as soon as possible for a pre-application meeting. The use of “Green Technology” stormwater practices is encouraged as well, and DNREC is available to provide technical assistance for this project. Contact DNREC Sediment and Stormwater at (302) 739-4411.

Drainage

The Drainage Section has knowledge of existing drainage complaints and concerns in the area on the north side of West Denneys Road. The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

The existing drainage ditch should be protected and buffered for future maintenance. The Drainage Section recommends the existing drainage ditch be surveyed to check if cleanout is needed before the units are built. The Drainage Section further recommends a setback of 25 feet from the edge of the tree line on the north side of the drainage ditch for future maintenance. No structures or fences should be placed in the setback.

Please contact Bob Enright at 739-4411 to schedule a preliminary meeting.

Habitat

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site. The following species are adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Buteo platypterus</i>	Broad Winged Hawk	Bird	S1B		G5	PS
<i>Fagus grandifolia-Liriodendron tulii</i>	Beech-Poplar-Gum Forest	Community	S2			

State Rank: S1 - extremely rare within the state (typically 5 or fewer occurrences); S2 - very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; **State Status:** E – endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state; **Global Rank:** G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T_ - variety or subspecies rank; Q –

questionable taxonomy; **Federal Status:** LE – endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT – threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; PS – proposed status.

Records of the species in the table above are within a larger block of ‘old growth forest’ which is adjacent to the project area. The portion of forest within the project area is not considered an ‘old growth forest’ and the species mentioned above are unlikely to be impacted by project activities.

We request that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. We further recommend the use of native plants and our botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Nuisance Species

We recommend that the developer(s) consider reducing the number of ponds incorporated within the subdivision. The ponds will likely attract waterfowl like resident Canada geese and mute swans that will create a nuisance for community residents. Although small numbers of these species are enjoyed by residents, geese and swans can quickly multiply and overwhelm the area. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Ponds that remain in the subdivision plan should be landscaped to deter nuisance species. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around ponds, are not as attractive to geese because they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the homeowners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with a reduction in the number of ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Parks and Recreation

We commend the owner and developer for working with DNREC staff in protecting 236 acres of adjacent donated lands.

Underground Storage Tanks

There is one active LUST sites located near the proposed project:

Andrews Market, Facility # 1-000132, Project # K9406142

June 18, 2004

Page 6 of 6

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

Department of Agriculture - Contact: Mark Davis 739-4811

A forested buffer is required between the proposed subdivision and all adjacent properties in active agriculture use. In addition, a forested buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

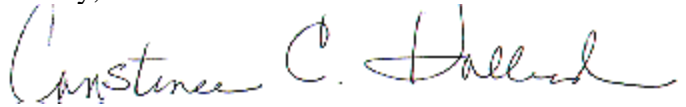
Delaware Emergency Managment Agency – Contact: Kevin Kille 659-3362

While no significant impacts to public safety are foreseen by the implementation of this development, the developer should notify police, fire service, and emergency medical organizations serving the City of Dover of their intentions.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being the most prominent part.

Constance C. Holland, AICP
Director

CC: City of Dover
MCKK, LLC